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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,218	12/30/2003	Keun-Bae Lee	11038-118-999	1461
24341	7590	09/15/2005	EXAMINER	
MORGAN, LEWIS & BOCKIUS, LLP. 2 PALO ALTO SQUARE 3000 EL CAMINO REAL PALO ALTO, CA 94306			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/749,218	LEE, KEUN-BAE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph F. Edell	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4, 6-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-4 and 6 is/are allowed.
- 6) Claim(s) 7-9 and 11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 June 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 06 June 2005. These drawings are acceptable.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:
  - a. line 6, "stopper means installed between said seat frame and said detecting link for fixing" should read --means, installed between said seat frame and said detecting link, for fixing--;
  - b. lines 7-8, "said stopper means" should read --said means for fixing--.

Appropriate correction is required. Because "means" has a distinct meaning within the U.S. Patent system and patent law in accordance with 35 U.S.C. 112, 6<sup>th</sup> paragraph ("means plus function"), the applicant should substitute the improper phrase "stopper means" with "means for fixing" from claim 1.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Publication No. 2002/0058819 A1 to Itoh in view of 5,934,750 to Föhl.

Itoh discloses an activating headrest that is basically the same as that recited in claims 7-9 except that the activated headrest lacks a slider, as recited in the claims. See Figures 1-8 of Itoh for the teaching that the activating headrest has a vehicle seat 1 (see Fig. 7), a headrest 36 pivotally coupled to the vehicle seat, a detecting link 11,12 (Fig. 1) coupled to the headrest and configured and dimensioned to pivot the headrest with respect to the vehicle seat in response to a vehicle accident wherein the detecting link is activated by a passenger received by the vehicle seat. Föhl shows an activating headrest similar to that of Itoh wherein the activating headrest has a headrest 16 (see Fig. 6), a detecting body 20, and a slider 30 configured and dimensioned to lock the headrest in a pivoted position following the headrest becoming pivoted by locking the slider in the teeth of the ratchet member 32. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the activating headrest of Itoh such that the headrest has a slider configured and dimensioned to lock the headrest in a pivoted position following the headrest becoming pivoted, such as the activating headrest disclosed in Föhl. One would have been motivated to make such a modification in view of the suggestion in Föhl that the slider maintains the headrest in a forward position and may be adjusted incrementally along the teeth of the ratchet member.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of Föhl as applied to claims 7-9 above, and further in view of U.S. Patent No. 5,842,738 to Knoll et al.

Itoh, as modified, discloses an activating headrest that is basically the same as that recited in claim 11 except that the activated headrest lacks a release cable, as recited in the claim. Knoll et al. show an activating headrest similar to that of Itoh wherein a ratchet member 18 (Fig. 1) has a release cable 24 (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the activating headrest of Itoh such that the headrest has a release cable coupled with the slider, such as the activating headrest disclosed in Knoll et al. One would have been motivated to make such a modification in view of the suggestion in Knoll et al. that the release cable provides releasable adjustment of a ratchet and lever arrangement.

***Allowable Subject Matter***

7. Claims 1-4 and 6 are allowed.

***Response to Arguments***

8. Applicant's arguments filed 06 June 2005 have been fully considered but they are not persuasive. Applicant argues that Föhl fails to teach a slider that locks the headrest in a pivoted position following the headrest becoming pivoted because slider urges engagement of the ratchet. However, the engagement with the ratchet is what locks the headrest in a pivoted position. The slider is coupled to the headrest and moves relative to the ratchet member 32 when moving into a pivoted position. Once in the pivoted position in response to a vehicle accident, the slider locks the headrest in the pivoted

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position by engaging the teeth of the ratchet member. The slider must be manually disengaged from the teeth to return the headrest to the original position.

The rejection under 35 USC 103(a) drawn toward claim 11 was argued solely on the premise that the cited art does not teach or suggest the headrest recited in amended claim 7, and as a result the above 35 USC 103(a) rejection of claim 11 remains.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JH  
September 9, 2005

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600